

Decision \_\_\_\_\_

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of the City of Sacramento for an order authorizing the construction of a new at-grade bicycle crossing of the Sacramento Southern Railroad.

Application 04-04-004  
(Filed April 1, 2004)

**O P I N I O N****Summary**

This decision grants the request of the City of Sacramento (City) to construct an at-grade bicycle/pedestrian crossing (crossing) over the tracks of the California State Railroad Museum (CSRM) also known as the Sacramento Southern Railroad. The crossing will be identified as California Public Utilities Commission (Commission) Crossing No. 093-0.75-D.

**Discussion**

The City requests authority to build an at-grade crossing across the tracks of the CSRM, along the Sacramento River levee. The project will provide improved public access to the R Street and Sacramento River Bicycle Trail System. The proposed project would construct approximately 0.7 mile of bicycle trail adjacent to the CSRM tracks along the east levee of the Sacramento River between Miller Park and the R Street bridge. The proposed at-grade crossing will provide access between the new bicycle trail and the existing bicycle route along Front Street and enable bicyclists and pedestrians to cross the tracks at right angles providing better bicycle orientation and maximum visibility.

Warning devices will consist of two Commission Standard #1-R Crossbucks with pavement markings and W10-1 advanced warning signs in both directions approaching the crossing.

Rail traffic consists of CSRM excursion trains that run 6 times per day on weekends April through September. There is little or no rail traffic on weekdays or during the period of October through March.

The Commission's Rail Crossings Engineering Section staff (RCES) has reviewed the location with respect to the need for grade separation, and concurs with the City that grade separating this location is not practicable due to the proximity of the river levee and adjacent streets.

The City is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resource Code Section 21000 et seq. On May 23, 2000, in Resolution 2000-268, the City adopted a Negative Declaration for the project, of which the proposed crossing is a part, and found that the crossing will not have a significant effect on the environment.

The Commission is a responsible agency for this project under CEQA (Public Resources Code Section 21000 et seq.). CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, to comply with CEQA, a responsible agency must consider the lead agency's Environmental Impact Report or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15059(b)). The specific activities that must be conducted by a responsible agency are contained in CEQA Guideline Section 15096.

The Commission's Consumer Protection and Safety Division-RCES has reviewed the lead agency's Negative Declaration for the project and find that it is adequate for our decision-making purposes. Safety, transportation and noise are

within the scope of the Commission's permitting process. The City's Negative Declaration found that the project would not have any significant environmental effect on safety, transportation and noise. We believe the City's impact determination was reasonable and we adopt that finding for purposes of this approval.

RCES inspected the site and examined the need for, and safety of the crossing. RCES recommends that the requested authority sought by the City be granted for a period of two years.

Application 04-04-004 meets the filing requirements of the Commission's Rules of Practice and Procedure, including Rule 38, which relates to the construction of a public highway across a railroad.

In Resolution ALJ 176-3132 dated April 22, 2004 and published in the Commission Daily Calendar on April 23, 2004, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. No protests have been received. Given these developments it is not necessary to disturb the preliminary determinations made in Resolution ALJ 176-3132.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

### **Assignment of Proceeding**

Richard Clark is the assigned Examiner in this proceeding.

### **Findings of Fact**

1. Notice of the application was published in the Commission's Daily Calendar on April 6, 2004. No protests have been filed.

2. The City requests authority, under Public Utilities Code Sections 1201-1205, to construct a new at-grade bicycle/pedestrian crossing across the tracks of the CSRM, to be identified as CPUC Crossing No. 093-0.75-D.

3. Public convenience, safety and necessity require the construction of the crossing in the City of Sacramento, Sacramento County.

4. The crossing will be equipped with two Commission Standard No. 1-R Crossbucks, pavement markings and advance warning signs.

5. The City is the lead agency for this project under CEQA, as amended.

6. On May 23, 2000, in Resolution 2000-268, the City adopted a Negative Declaration for the project, of which the proposed crossing is a part, and found that the crossing will not have a significant effect on the environment

7. The Commission is a responsible agency for this project, has reviewed the City's environmental documents and finds them adequate for our decision-making purposes.

8. Safety, transportation and noise are within the scope of the Commission's permitting process.

9. The City's environmental documentation did not identify any potential impacts related to safety, transportation and noise.

### **Conclusions of Law**

1. The application is uncontested and a public hearing is not necessary.

2. The City reasonably concluded that the project will not have a significant effect on the environment and we adopt that finding for purposes of this project approval.

3. The application should be granted as set forth in the following order.

**O R D E R****IT IS ORDERED** that:

1. The City of Sacramento (City) is authorized to construct a new at-grade bicycle/pedestrian crossing (crossing) on the Sacramento River levee across the tracks of the California State Railroad Museum (CSRM) at the location as shown on the plans attached to the application, identified as California Public Utilities Commission (Commission) crossing No. 093-0.75-D.

2. The proposed at-grade crossing will provide access between the new bicycle trail and the existing bicycle route along Front Street and enable bicyclists and pedestrians to cross the tracks at right angles providing better bicycle orientation and maximum visibility.

3. The crossing shall be equipped with two Commission Standard No. 1-R Crossbucks, pavement markings and advance warning signs.

4. Clearances shall be in accordance with California Public Utilities Commission General Order (GO) 26-D.

5. Walkways shall conform to GO 118. Walkways adjacent to track subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

6. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between the City and CSRM (parties). Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

7. Within 30 days after completion of this project, CSRM shall notify Rail Crossings Engineering Section in writing by submitting a completed Standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) that the authorized work is completed.

8. This authorization shall expire if not exercised within two years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

9. This application is granted as set forth above.

10. Application 04-04-004 is closed.

This order becomes effective 30 days from today.

Dated \_\_\_\_\_, at San Francisco, California.